

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** April 12, 2010  
**POSITION:** Oppose

**BILL NUMBER:** AB 2603  
**AUTHOR:** T. Gaines

### **BILL SUMMARY:** Administrative Regulations: Reductions

This bill would require every state agency to:

- Determine the number of regulations it imposes by July 1, 2011 and to reduce this number by 33 percent no later than December 31, 2012.
- Give priority to eliminating regulations that increase the regulatory burden on businesses.
- Eliminate another regulation when any new regulation is proposed, until December 31, 2021.
- Submit a report of regulations eliminated or identified for elimination to the Bureau of State Audits (BSA).

This bill would require BSA to perform an evaluation of the identified regulations and determine, in a report to the Legislature, whether the removal of the regulations would result in less of a regulatory burden for business. This bill would require the Legislature to appropriate funds to BSA to fulfill these duties.

### **FISCAL SUMMARY**

At this time, the Office of Administrative Law (OAL) and the BSA do not have estimates of this measure's fiscal impact. Finance believes this bill would significantly increase workload and costs at OAL, BSA, and other affected state entities. The total cost of this bill is unknown but expected to be significant. OAL currently does not have sufficient staffing for the additional workload associated with this bill.

We note the 2010-11 Budget proposes converting OAL to a fee for service model wherein OAL bills client departments directly for services. OAL is currently developing the fee structure for this new model. Each affected state agency would be required to pay for OAL's workload associated with this bill.

### **COMMENTS**

The Department of Finance is opposed to this bill because it would result in additional state costs which are not included in the Governor's 2010-11 Budget proposal. Additionally, this bill appears overly broad and would impose a dramatic amount of workload, over a relatively short period of time, to a number of state agencies without providing additional resources to support that additional workload.

The Administrative Procedure Act (APA) sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies. The APA regulation review process may take up to a year to complete. On average OAL reviews 600-800 rulemaking regulation packages under the APA process annually. Part of this process includes the completion of an Economic Impact Statement meant to identify various fiscal impacts on government agencies, the public, and businesses.

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Analyst/Principal (0212)	Date	Assistant Program Budget Manager	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

<b>BILL ANALYSIS</b>	Form DF-43 (Rev 03/95 Buff)
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T. Gaines

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AB 2603

- Submit a report of regulations eliminated or identified for elimination to the Bureau of State Audits (BSA).
- Give priority to eliminating regulations that increase the regulatory burden on businesses.

We note any regulation proposed for elimination would be required to go through the APA process prior to being eliminated. There are currently 57,719 active state regulations, so a 33 percent reduction would eliminate 16,737 regulations. Adding 16,737 regulations to the ongoing APA process pipeline, i.e. 600-800 annually, would create a significant backlog under the timelines provided in this bill. OAL currently does not have sufficient staffing for additional workload associated with this bill.

We note the 2010-11 Budget proposes converting OAL to a fee for service model wherein OAL bills client departments directly for services. OAL is currently developing the fee structure for this new model. Each agency would be required to pay for OAL's services associated with this bill.

Regulations are a generally byproducts of enacted legislation or court orders. Therefore, eliminating a regulation may require a change of law or a challenge to a standing court order. Without repealing the requirements that initially generated the regulation, agencies and the State would be at risk for legal challenges to the way their programs operate.

Additionally, we note that requiring an agency to prioritize its regulations based upon the impact a regulation has on business may be out of scope with the agency's capabilities. Some agencies may need to contract out for services to meet this provision of the bill which could increase state costs further.

Finally, we note concern that this bill would require that any new regulations proposed eliminate another regulation. This could promote the use of underground regulations, which is what occurs when a state agency issues guidelines without the full APA process. This could result in unanticipated state costs, i.e. fines, penalties, and lawsuits, associated with underground regulations.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
9901/Var Depts	SO	No	-----	See Fiscal Summary	-----	-----	-----	-----	0001
8910/Admin Law	SO	No	-----	See Fiscal Summary	-----	-----	-----	-----	0001
8855/Bureau Audit	SO	No	-----	See Fiscal Summary	-----	-----	-----	-----	0001